

Legislative Analysis



REVISE RECALL PETITIONS AND PROCEDURES

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House Bill 5965 (Substitute H-1)

Sponsor: Rep. Richard Ball

Committee: House Oversight, Elections, and Ethics

First Analysis (8-28-06)

BRIEF SUMMARY: The bill would revise the requirements for recall petitions by prohibiting the collection of signatures on a recall petition during an elected official's first six months in office, setting a \$50 filing fee for recall a petition circulator, requiring that the reasons for the recall be attached to each petition, and invalidating any signatures collected if provisions of the law were ignored.

FISCAL IMPACT: A fiscal analysis is in process.

THE APPARENT PROBLEM:

All elected officials, except judges, may be recalled from office by the voters if their behavior is found unacceptable. In order to remove an errant official from office, petitions are circulated to put the question on the ballot. If enough petition signatures are gathered, then the fate of the officials is determined in a recall election when all registered electors have an opportunity to vote "yes" or "no" to the proposed recall.

According to committee testimony, sometimes frivolous or harassing recall petitions are circulated by one elector, or by a small group of disgruntled citizens. Indeed, in one township in Shiawassee County, a single individual has circulated 10 recall petitions in the past eight years, causing some citizens to charge an abuse of the recall process.

Some have proposed that the law be amended, in order to dissuade circulators from using the process in unproductive ways, and to delay, as well as to curb, the number of frivolous recall petitions that are in circulation.

THE CONTENT OF THE BILL:

House Bill 5965 (H-1) would amend the Michigan Election Law to revise the requirements for recall petitions and procedures.

Six-Month Threshold. Currently under the law, a recall petition cannot be filed against an elected official until he or she has actually performed the duties of office for a period of six months. Nor can a recall petition be filed during the last six months of the elected official's term of office. House Bill 5965 would retain these provisions, but also specify that *"recall petition signatures" could not be collected during an official's first six months in office.*

Filing Fee. Also under the law, a petition for the recall of an official, before being circulated, must be submitted to the Board of County Election Commissioners of the county where the officer whose recall is sought resides. That board reviews the petition, and makes a determination as to its clarity, in order that the officer who is being recalled and the electors can identify the course of conduct that is the basis for the recall. House Bill 5965 would retain these provisions, and also ***require that a filing fee of \$50*** be submitted with the recall petition. The recall petition filing fee would be filed with the Board of County Election Commissioners and be paid by that board in its proportionate share to the treasurer of each governmental unit responsible for conducting the recall election. If the recall petition filing fee were paid to a governmental unit other than the county, then the Board of County Election Commissioners would withhold 10 percent of the fee as an administrative fee.

Recall Reasons. Under the bill, the reasons for the recall that are determined to be of sufficient clarity would have to be **permanently affixed** to each recall petition that was circulated for signatures.

Invalid Signatures. Any signature collected on a recall petition that did not comply with the requirement that the recalled reasons be affixed to a petition, or that did not comply with any other provision of the act, would not be counted.

MCL 168.951 et al

ARGUMENTS:

For:

The recall process is a necessary and important protection afforded voters in a democracy. However, in a few regions of the state the recall process is being abused by citizens whose grievances against local government are quixotic, at best. For example, in one township in Shiawassee County, a single individual has circulated 10 recall petitions in the past eight years. In situations such as this, the allegations made by regular, repeating petition circulators are often incoherent or unknown to potential signatories. This bill would require that each recall petition have an attached explanation of the reason(s) for the proposed recall election.

For:

The threat of recall elections in some local jurisdictions is excessive, and the recall process is being abused. The law should include disincentives in order to dissuade frivolous or harassing petition circulators who carry grudges against officials, rather than legitimate grievances against government. This bill would prohibit a citizen from circulating a recall petition during an elected official's first six months in office. Further, it would require a petition circulator to pay a \$50 filing fee when proposing a recall election to fellow citizens.

Against:

While this is a good bill, it should be amended to remove the prohibition against circulating recall petitions during an elected official's first six months in office. An official could act egregiously during the first six months of office, and removal of that official should be undertaken expeditiously. If petitions cannot be circulated until the seventh month of the official's term, it is likely that a necessary and urgent recall election will be delayed.

POSITIONS:

The Michigan Association of County Clerks supports the bill. (5-24-06)

The Michigan Townships Association supports the bill. (5-24-06)

The Michigan Association of Counties supports the bill. (5-24-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.